

IN RE: PETITION FOR ZONING VARIANCE
32/CORNER Bell Avenue and
Cross Street
(1945 Bell Avenue)
13th Election District
1st Councilmanic District
Timothy L. LeBon, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-411-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a rear yard setback of 10 feet in lieu of the required 30 feet for an existing dwelling in accordance with Petitioner's Exhibit 1.

Petitioners appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 1945 Bell Avenue, consists of 14,310 sq.ft. zoned D.U. 5.5, and is improved with a two-story frame dwelling. Petitioners are desirous of subdividing their property to create a separate building lot and constructing a one and one-half story dwelling on the new lot. Testimony indicated that the proposed new dwelling will meet all setback requirements; however, as a result of the subdivision, the existing dwelling will not meet rear yard setback requirements. Petitioners testified as to the financial hardship they would suffer if the requested variance were denied. Testimony indicated they purchased the property in 1986 and that at that time, the existing dwelling was in need of repair. Petitioners testified they invested a considerable amount of money into the property to update their home and make it more compatible with the neighborhood. Testimony indicated that if the variance is granted, there would not be any detriment to the health, safety or general welfare of the public or surrounding community.

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1. To allow a rear yard setback of 10 feet in lieu of the minimum required 30 feet.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

We need a variance to create a 10' rear set back on existing house.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.:
Address
City and State
Phone No.

Legal Owner(s):
Timothy L. LeBon
(Type or Print Name)
Signature
Disne C. LeBon
(Type or Print Name)
Signature
1945 Bell Avenue
Address
Baltimore, MD 21227
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address
City and State
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of April, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 20th day of April, 1989, at 2:30 o'clock P.M.

(over)

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3rd day of May, 1989 that the Petition for Zoning Variance to permit a rear yard setback of 10 feet in lieu of the required 30 feet for an existing dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

Beginning on the east side of Bell Avenue 40 feet wide, at a distance of 20 feet south of the center line of Cross Street. Being lot 24 in the subdivision of Oak Park, Book #3, Folio 145. Also known as 1945 Bell Avenue in the 13th Election District.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 13
Posted for: Variance
Petitioner: Timothy L. LeBon, et ux
Location of property: SE 1/4 Bell Avenue and Cross Street
Location of Signs: In front of 1945 Bell Avenue
Remarks: S. J. Anastos
Posted by: S. J. Anastos
Number of Signs: 1
Date of Posting: March 29, 1989
Date of return: April 7, 1989

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) No other variances shall be requested for the subject property or the proposed lot on Cross Street.
- 3) Prior to the issuance of any permits, Petitioner shall submit a certified, surveyed site plan showing all existing improvements and the proposed location of the new dwelling.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

May 3, 1989



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Timothy L. LeBon
1946 Bell Avenue
Baltimore, Maryland 21227

RE: PETITION FOR ZONING VARIANCE
SE/CORNER Bell Avenue and Cross Street
(1945 Bell Avenue)
13th Election District - 1st Councilmanic District
Timothy L. LeBon, et ux - Petitioners
Case No. 89-411-A

Dear Mr. & Mrs. LeBon:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-5391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

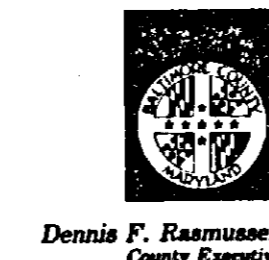
cc: People's Counsel

File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 7-3-89



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Timothy L. LeBon
1946 Bell Avenue
Baltimore, Maryland 21227

Re: Petition for Zoning Variance
CASE NUMBER: 89-411-A
SEC Bell Avenue and Cross Street
1945 Bell Avenue
13th Election District - 1st Councilmanic
District
Petitioner(s): Timothy L. LeBon, et ux
HEARING SCHEDULED: THURSDAY, APRIL 20, 1989 at 9:30 a.m.

Dear Mr. & Mrs. LeBon:

Please be advised that \$76.27 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post set(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204, 10 minutes before

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 4/26/89 ACCOUNT: 801615-000

AMOUNT: \$ 76.27

RECEIVED FROM: Timothy L. LeBon

FOR: P.A. 4/26/89 89-411-A

VALIDATION OR SIGNATURE OF CASHIER

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property described herein in Room 106 of the County Office Building, located at 111 W. Crossroads Avenue in Towson, Maryland 21204 on the following:

Petition for Zoning Variance
Case number: 89-411-A
SEC Bell Avenue and Cross Street
1945 Bell Avenue
13th Election District
1st Councilmanic District
Petitioner(s): Timothy L. LeBon, et ux
Hearing Date: Thursday, April 20, 1989 at 9:30 a.m.

Variance: To allow a rear yard setback of 10 feet in lieu of the minimum required 30 feet.

In the event that the Petitioner granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, accept any request for a stay of the execution of the order during the period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
CU/3300 Mar. 23

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property described herein in Room 106 of the County Office Building, located at 111 W. Crossroads Avenue in Towson, Maryland 21204 on the following:

Petition for Zoning Variance
Case number: 89-411-A
SEC Bell Avenue and Cross Street
1945 Bell Avenue
13th Election District
1st Councilmanic District
Petitioner(s): Timothy L. LeBon, et ux
Hearing Date: Thursday, April 20, 1989 at 9:30 a.m.

Variance: To allow a rear yard setback of 10 feet in lieu of the minimum required 30 feet.

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J. ROBERT HAINES
Zoning Commissioner of Baltimore County
CU/3300 Mar. 23

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was inserted in the following: X THE JEFFERSONIAN
☒ Catonsville Times ☐ Booster Weekly
☐ Arbutus Times ☐ Owings Mills Flier
☐ Reporter Weekly ☐ Towson Flier

weekly newspapers published in Baltimore County, Maryland once a week for successive weeks before the day of March 23, 1989 that is to say, the same was inserted in the issues of

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IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY, IN EQUITY

Plaintiff

Defendant

CERTIFICATE OF PUBLICATION OF

PO 10847
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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3533
J. Robert Haines
Zoning Commissioner

March 8, 1989

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

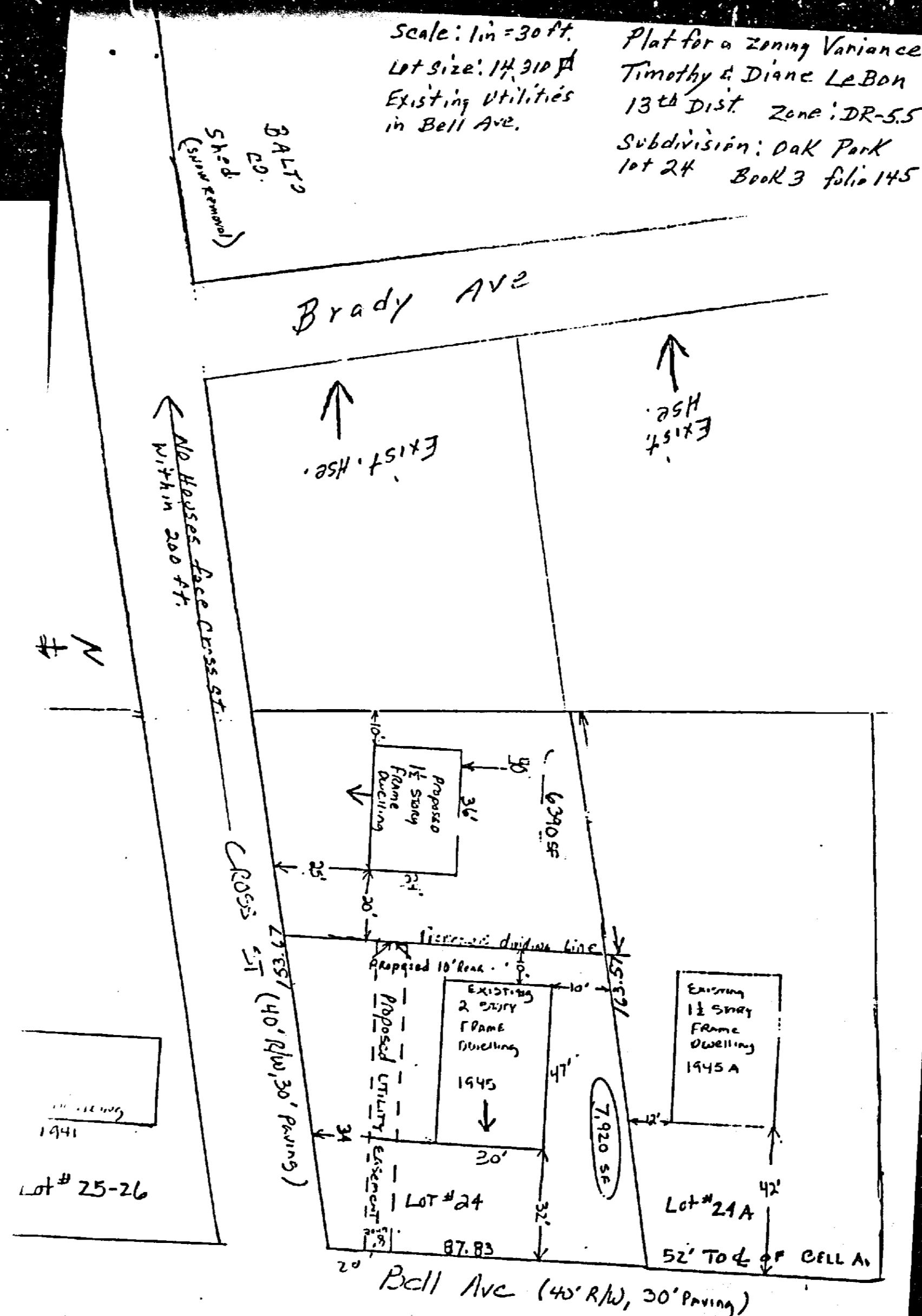
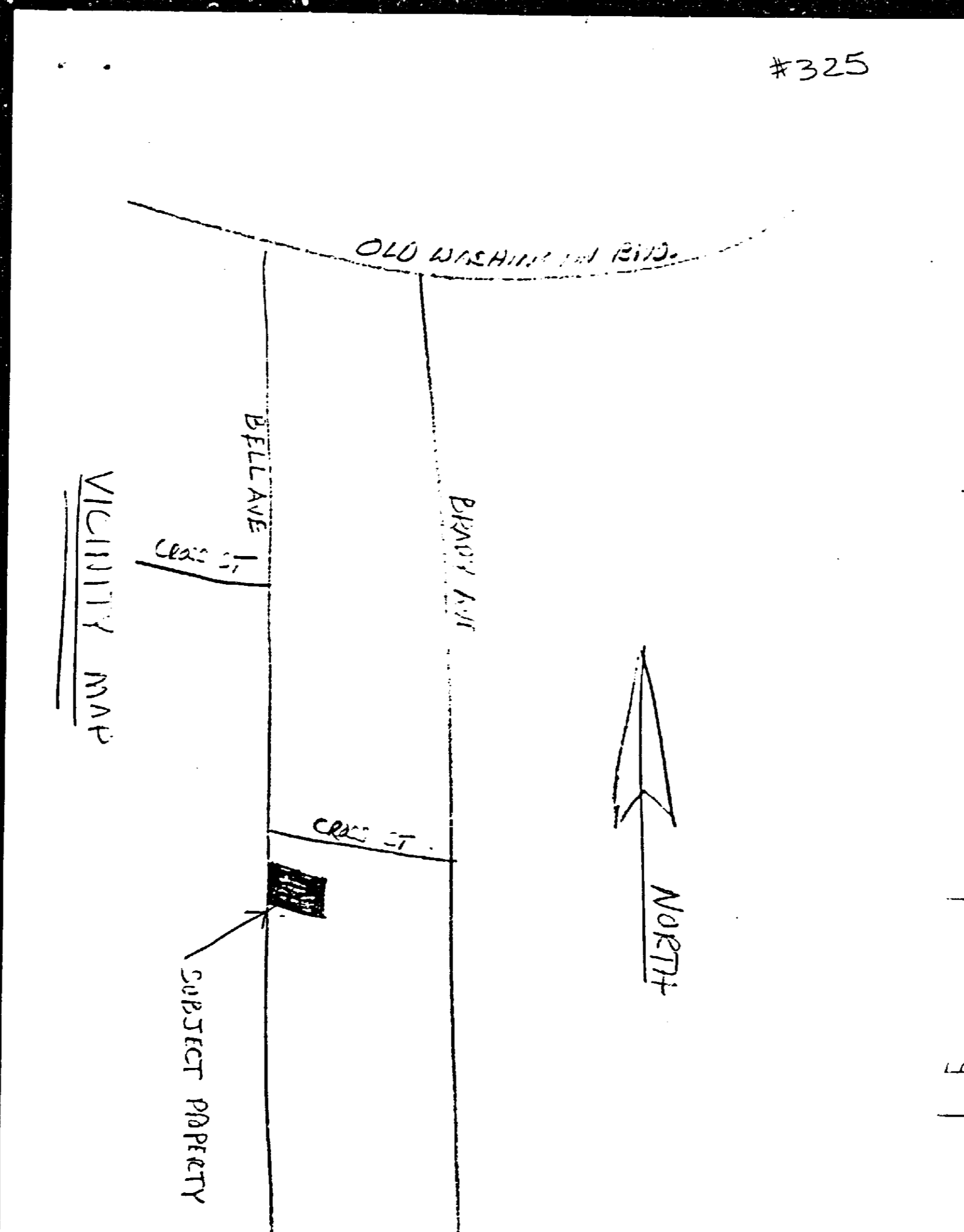
Petition for Zoning Variance
CASE NUMBER: 89-411-A
SEC Bell Avenue and Cross Street
1945 Bell Avenue
13th Election District - 1st Councilmanic
Petitioner(s): Timothy L. LeBon, et ux
HEARING SCHEDULED: THURSDAY, APRIL 20, 1989 at 9:30 a.m.

Variance to allow a rear yard setback of 10 ft. in lieu of the minimum required 30 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County



**PETITIONER'S
EXHIBIT 1**

89-411-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
15th day of February, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Timothy L. LeBon, et ux Received by: JAMES E. DYER
Petitioner's Attorney: _____ Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 5, 1989

Mr. Timothy L. LeBon
1945 Bell Avenue
Baltimore, MD 21227

RE: Item No. 325, Case No. 89-411-A
Petitioner: Timothy L. LeBon, et ux
Petition for Zoning Variance

Dear Mr. LeBon:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 667-3391.

Very truly yours,

James E. Dyer, Jr.
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

March 1, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 255, 318, 322, 324, 325, 326, 327, 328, & 329.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
MAR 3 1989
ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Timothy L. LeBon, et ux

Location: SEC Bell Ave. and Cross St. (#1945 Bell Ave.)

Item No.: 325 Zoning Agenda: 02/14/89

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *[Signature]*
Special Inspection Division

NOTED &
APPROVED

[Signature]
Fire Prevention Bureau

/31

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: 4/20/89

FROM: Pat Keller
Deputy Director

SUBJECT: ZONING ADVISORY COMMENTS

Case # 89-411-A
Item # 325

The Petitioner requests a variance to permit a rear yard setback of 10 feet in lieu of the required 30 feet. In reference to this request, the staff offers no comment.

cc: Mr. & Mrs. LeBon
4-14-89